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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,981	12/17/2003	Fabrice Pourtier	713-981	4810

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EXAMINER	
REESE, DAVID C	

ART UNIT	PAPER NUMBER
3677	

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/736,981	POURTIER, FABRICE	
	Examiner	Art Unit	
	David C. Reese	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *Amendment: 28 February 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This office action is in response to Applicant's amendment filed 2/28/2005.

Status of Claims

[1] Claims 1-20 are now pending.

Specification

[2] Applicant has addressed all objections to the specification, including the abstract (which has consequently been entered), in the amendment filed 2/28/2005. Accordingly, the Examiner has withdrawn all objections to the disclosure.

Response to Arguments

[3] Applicant's amendment and arguments filed 2/28/2005 regarding rejections under 35 U.S.C. 103 have been fully considered but the prior art still reads on the amended claims and the arguments are not found persuasive; consequently, the original claims 1-8 remain rejected.

To begin, the applicant traversed the rejection of Claim 1 because the applied art references clearly failed to disclose, teach or suggest the original claimed, "non-straight continuous expansion aperture...axially spaced from said slot." Examiner would like to make it known that it is readily apparent to those skilled in the art of the rationale behind expansion apertures and how varying the position of such apertures or slots on the side of a fastener can have a more efficient anchoring effect for the fastener within a various wall or substrate.

Remmers teaches of an anchor that possesses an expansion aperture at the bottom of said anchor that serves a purpose as shown in Fig. 6. Goring et al., on the other hand, teaches of an expansion slot, the intermediate portion of which includes a zigzag configuration, found down the majority of the anchoring dowel's body, as shown in Fig. 8. Thus, the importance of such a zigzag structure is illustrated as it allows the expansion area to progressively distend outwardly and radial pressure build progressively as the fastening member is inserted lengthwise in the plug. It would have been obvious to one skilled in the art, to either combine the lower expansion area of Remmers with a zigzag configuration of Goring et al., separated by a section of a wall, or to just take the expansion slot of Goring et al., and insert a break (via a section of the wall) in said expansion slot, giving way to two separate expansion areas, an intermediate one, and a latter one, axially spaced from said intermediate one.

Such a structure is obvious and ideal to those skilled in the art because a expansion slot is positioned as such in the intermediate area of the anchor to allow an expansion of such within the wall or substrate, that is, as the fastening member is inserted, it alternatively comes into contact in the lengthwise direction with the varying zigzag slits, or inner edges, and yields an enlarged expansion of the plug in a manner in itself known (as further in Fig. 9 shown by Murphy, 5, 080, 543); while the latter expansion slot protrudes out the other side of the substrate giving a second expansion of the anchor, extending out of the hole. Thus, this together with the intermediate slot creates a more stable and concrete connection between the anchor and the substrate by utilizing two different expansion areas, one within the substrate and another at the end of the anchor, expanding out of the wall or substrate with the penetration of a fastener.

As for Claim 2, after substituting just the intermediate expansion aperture of Goring into that of Remmers, that is, substituting 13-16 in Fig. 1 of Goring to that axially above the slot of Remmers, separated by a wall of the anchor, and where the axial length of the apertures within the intermediate part (the substituted section from Goring) is shorter than that of the slots of the crural part of Remmers.

With regard to Claim 4, the applicant traverses the acute angles that are present on that of Goring et al. Examiner notes that the difference of an angle in this aspect of the invention is merely an example of design choice, as it would have been obvious to one having ordinary skill in the art at the time the invention as made to change the degree of the angle from over 90 degrees to under, as a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). Also, there is also no exact angle disclosed within the specification of the claimed invention, as well as why the angles have to be acute over other triangular zigzag shapes, which can still be used for the purpose at hand.

As for Claim 5, as currently stated by applicant, "wherein each expansion aperture of the intermediate part is continuously extended (11b in Figs. 4-7 of McSherry) in a portion thereof adjacent to the bearing collar (5 in Figs. 4-7 of McSherry), by a side branch (9 in Fig. 6)." This continuously extended feature is shown in Figs. 6 and 7 of McSherry.

Now as for Claims 9-20:

Claim Rejections - 35 USC § 103

[4] Maintaining the same 103 Rejection (Remmers in view of Goring) from the first office action:

As for Claim 9, wherein said expansion apertures (13-16 in Fig. 1 of Goring) are not continuous to the respective slots (aperture as shown in the latter half Fig. 5 of Remmers) of which have an Y shape (It would have been an obvious matter of design choice to create a Y shape for the slot, as Applicant has not disclosed that it solves any stated problem of the prior art or is for any particular purpose. It appears that the invention would perform equally well as the invention/slot disclosed by Remmers) (Further showed in Fig. 2 by submitted prior art, FR 2470279).

As for Claim 10, Remmers teaches of a hollow wall anchor in view of Goring comprising:

a tubular body having axially opposite first and second ends and an intermediate portion between the first and second ends (Fig. 5 of Remmers);

at least one slot being formed in a wall of said tubular body and extending axially from the first end toward the second end so as to render the first end expansible (latter half in Fig. 5 of Remmers); and

at least one elongated, non-linear aperture being formed through the wall of said body in the intermediate portion (Remmers in view of substituting the non-linear aperture of the intermediate part, 13-16 in Fig. 1 of Goring) so as to render said intermediate portion expansible, wherein said aperture is located between said slot and the second end and is non-continuous to

said slot (after substitution of the intermediate expansion aperture of Goring into Remmers, and as discussed earlier in the instant office action).

Re: Claim 11, wherein

said at least one slot comprises two slots being formed in the wall of said tubular body and extending axially from the first end toward the second end so as to render said first end expansible (The two slots on both sides of the wall of the tubular body in the latter half of Fig. 5 of Remmers); and

said at least one aperture comprises two elongated, non-linear apertures being formed through the wall of said body in the intermediate portion (Remmers in view of substituting the non-linear aperture of the intermediate part of 13-16 in Fig. 1 of Goring, which comprises two elongated, non-linear apertures being formed down the wall of the tubular body of Goring) so as to render said intermediate portion expansible, wherein each of said apertures is located between one of said slots and the second end and is non-continuous to said slot (after substitution of the intermediate expansion aperture of Goring into Remmers, and as discussed earlier in the instant office action).

Re: Claim 12, wherein each of said apertures extends on both sides of a plane containing said slots (Remmers in view of substituting the non-linear aperture of the intermediate part, 13-16 in Fig. 1 of Goring to the same plane as the slots found on Remmers).

Re: Claim 13, wherein each of said apertures has opposite closed ends spaced from each other in an axial direction of said tubular body (Remmers in view of substituting the non-linear aperture of the intermediate part, 13-16 in Fig. 1 of Goring).

Re: Claim 14, wherein one of said closed ends is located adjacent the second end whereas another one of said closed ends is located adjacent a closed end of the respective slot (Remmers in view of substituting the non-linear aperture of the intermediate part, 13-16 in Fig. 1 of Goring).

Re: Claim 15, wherein said wall of said tubular body includes a section extending continuously for full 360 degrees in a circumferential direction of said tubular body between each of said apertures and the respective slot to separate said apertures and said slots from each other (It would have been obvious to one skilled in the art, to either combine the lower expansion area of Remmers with a zigzag configuration of Goring et al., separated by a section of a wall, or to take the expansion slot of Goring et al., and insert a break (via a section of the wall) in said expansion slot, giving way to two separate expansion areas, an intermediate one, and a latter one, axially spaced from said intermediate one; and giving a section extending continuously for full 360 degrees in a circumferential direction).

Re: Claim 16, having an axial plane dividing said plug into two parts, each of said parts including entireties of one of said slots and the respective aperture (axial plane from top to bottom in Fig. 5 of Remmers).

Re: Claim 17, wherein

each of said apertures has a zigzag shape including a plurality of sections continuous to each other to define said zigzag shape (intermediate section, 13-16 in Figure 1 of Goring); and

adjacent ones of said sections of said zigzag shape from with each other an acute angle (Goring in view of design choice, as further described in the former section of this office action).

Re: Claim 18,

each of said apertures has a zigzag shape including a plurality of sections continuous to each other to define said zigzag shape (intermediate section, 13-16 in Figure 1 of Goring); and

portions of the wall that are located between adjacent ones of said sections of said zigzag shape protrude radially inwardly towards an axis of said tubular body so as to prevent a fastening element to be inserted in the plug from engaging said aperture (it would be readily apparent to one skilled in the art to have a portion of a the shape of an aperture within a intermediate section to have an internal protrusion into a tubular body, as shown in Fig. 3 of Murphy, 5,080,543. This is highly appreciated and well known in the art so as to create the ability to create the anchor or plug with the fastener or screw within the body as one entity, while there is a protrusion on the internal side to deter the screw or fastener from advancing without due process by the user, such as by a hammer for example).

Re: Claim 19, wherein said slot (Remmers, Fig. 5) has an Y shape (It would have been an obvious matter of design choice to create a Y shape, as Applicant has not disclosed that it solves any stated problem of the prior art or is for any particular purpose. It appears that the invention would perform equally well as the invention disclosed by Remmers in view of Goring) (Further showed in Fig. 2 by submitted prior art, FR 2470279) including a main section extending axially from the first end towards the second end of said body; and two branches extending from the main section further towards the second end of said body and terminating at two closed ends.

Re: Claim 20, wherein said aperture has axially closed ends one of which is located between and spaced from said two closed ends of said slot (Remmers in view of substituting the non-linear aperture of the intermediate part, 13-16 in Fig. 1 of Goring).

Conclusion

[5] Examiner notes the non-continuous structure of the intermediate apertures/crural slots of the claimed invention, and how the intermediate section is separated from the crural expansion slots by various sections of a wall. Examiner would like to reiterate that is not a novel feature, as is well known in the art of the benefit of having both an intermediate expansion feature as well as one at the latter end of the anchor. By separating the two, a device is created that maximizes the characteristics of each of the expansion sections, which overall aids the plug to maintain a more concrete connection between the wall and said plug. Therein lies the motivation for such a combination.

[6] Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

[7] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is 703-305-4805. Due to a future move, however, this number will change after the 31st of March. After this date, the examiner can be reached at (571) 272- 7082. The examiner can normally be reached on 7:30 am - 5:00 pm M-Th, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,
David Reese
Examiner
Art Unit 3677

ROBERT J. SANDY
PRIMARY EXAMINER